

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT 12
CAUSE NO. 49D12-0706-PL-26809

STATE OF INDIANA,
Plaintiff,

v.

MICHELLE R. DZERVE, individually and doing
business as, Choice OK Used Cars,
Defendant.

FILED
170 OCT 01 2007
Elizabeth A. White
CLERK OF THE MARION CIRCUIT COURT

DEFAULT JUDGMENT

The Plaintiff, State of Indiana, having filed its Motion for Default Judgment against Defendant Michelle R. Dzerve, individually and doing business as, Choice OK Used Cars, and the Court having read the same and being duly advised in the premises, now finds:

1. The Court has subject matter jurisdiction and personal jurisdiction over the Defendant.
2. The State served Defendant Michelle R. Dzerve with notice of these proceedings by complaint and alias summons on July 13, 2007.
3. On July 26, 2007, Defendant's Council filed an appearance for Michelle R. Dzerve and requested an extension of time to respond to the State's Complaint.

4. The Court granted the Defendant's motion for extension of time to respond, and ordered the Defendant to file her answer on or before August 27, 2007.

5. On September 6, 2007, Deputy Attorney General Mary Ann Wehmuller left a voice mail message for the Defendant's attorney to discuss when Defendant's answer would be filed.

6. On September 10, 2007, Deputy Attorney General Wehmuller spoke with attorney Jeffrey Jackson's assistant about the overdue answer.

7. The State gave written notice of its intent to file this Default Motion to Michelle R. Dzerve's counsel on September 18, 2007.

8. Michelle R. Dzerve has failed to file an answer to the State's Complaint.

9. Defendant, Michelle R. Dzerve, is not an infant, incompetent, or in military service.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Motion for Default Judgment is **GRANTED** in favor of the Plaintiff, State of Indiana, and against the Defendant, Michelle R. Dzerve. The Defendant, her agents, representatives, employees, successors, and assigns are permanently enjoined from:

- a. misrepresenting the characteristics and benefits of vehicle sales transactions in violation of Ind. Code §24-5-0.5-3(a)(1);
- b. misrepresenting warranty of title in violation of Ind. Code §24-5-0.5-3(a)(8);
- c. misrepresenting her ability to complete the subject of a consumer transaction within a stated or reasonable period of time in violation of Ind. Code §24-5-0.5-3(a)(10); and,

- d. selling motor vehicles without delivering vehicle titles as required by Ind. Code §9-17-3-3.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is **GRANTED** in favor of the Plaintiff, State of Indiana, and against the Defendant, Michelle R. Dzerve, individually and doing business as, Choice OK Used Cars as follows:

- a. Costs pursuant to Ind. Code §24-5-0.5-4(c) (3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action in the amount of \$1,057.50;
- b. Civil penalties pursuant to Ind. Code §24-5-0.5-4(g) on Count I of the Plaintiff's complaint, for the Defendants' knowing violations of Ind. Code §24-5-0.5-3(a) (1); (a) (8); (a) (10) and Ind. Code §9-17-3-3, in the amount \$5,000.00 per violation or \$45,000.00, payable to the State of Indiana;
- c. Civil penalties pursuant to Ind. Code §24-5-0.5-8 on Count III of the Plaintiff's complaint, for the Defendants' intentional violations of Ind. Code §24-5-0.5-3(a) (1); (a) (8); (a) (10) and Ind. Code §9-17-3-3, in the amount of \$500.00 per violation or \$4,500.00, payable to the State of Indiana; and
- d. All other proper relief.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Indiana Bureau of Motor Vehicles is directed to issue titles for vehicles the identified consumers and their identified lien holders, as follows:

CONSUMER

VEHICLE ID

- 1) 2000 Mitsubishi, JA4MT41R9YP815873, owner:

Frank Ahnert
18592 54th Avenue
Surrey, BC V3S 8L9

- 2) 1996 Audi, WAUDA88D5TA310337, owner:

Varun Kumar Bonthu
5938 West Mooresville Road, #22
Indianapolis, IN 46221

- 3) 1999 BMW, WBABF7334XEH43196, owner:

Timothy Greis
2251 N. 650 E
Columbus IN 47203
Lienholder: Fifth Third Bank

- 4) 1999 Jeep, J4GZ58S3WC361599, owner

Robin Harvey-Young
1030 S. Center Street
Terre Haute IN 47807

- 5) 1999 Mercedes-Benz, 4JGAB54E6XA140863, owner:

Tony R. Hoskins
20142 Metzger Drive
Rockwood, MI 48173
Lienholder: Priority Community Credit Union

- 6) 2001 Kia, KNDJA723215704819, owner

Brian Lott
9800 Oakleaf Way
McCordsville IN 46055
Lienholder: Forum Credit Union

7) 2001 Land Rover, SALTL12431A724831, owner

Kerry Miller
512 Oakmont Avenue
Erie PA 16505

8) 1997 Jeep, 1J4FY29P9VP452763, owner:

Joseph Tanasovich
1302 North Bosart Avenue
Indianapolis, IN 46201

9) 1998 Dodge, 1B4HS28Y2WF215949, owner:

Ian Vining
137 West 6th Street
Post Office Box 133
Roanoke IN 46783
Lienholder: National City of Indiana.

For a total monetary judgment in the amount of \$50,557.50 in favor of the
Plaintiff, State of Indiana against the Defendant Michelle R. Dzerve.

ALL ORDERED, ADJUDGED AND DECREED on this _____ day of _____,

_____, 2007.

RECOMMENDED FOR APPROVAL

MASTER COMMISSIONER

APPROVED AND ORDERED
Judge, Marion Superior Court 12
Civil Division

JUDGE

DISTRIBUTION:

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